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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,391	10/02/2003	James E. Moon	200701/1194	9550
7590	04/19/2004		EXAMINER	
Nixon Peabody LLP Clinton Square P.O. Box 31051 Rochester, NY 14603-1051			THERKORN, ERNEST G	
			ART UNIT	PAPER NUMBER
			1723	
DATE MAILED: 04/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/677,391	MOON ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ernest G. Therkorn	1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 02 October 2003.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 23 and 24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 23 and 24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey (U.S. Patent No. 6,110,343) in view of Sethi (U.S. Patent No. 4,891,120). At best, the claim differs from Ramsey (U.S. Patent No. 6,110,343) in reciting reactive ion etching. Ramsey (U.S. Patent No. 6,110,343) (column 1, lines 13-15) discloses etching electrospray channels. Sethi (U.S. Patent No. 4,891,120) (column 2, lines 23-40) discloses reactive ion etching allows formation of well-defined shapes with sharp edges and corners. It would have been obvious to use reactive ion etching in Ramsey (U.S. Patent No. 6,110,343) because Sethi (U.S. Patent No. 4,891,120) (column 2, lines 23-40) discloses reactive ion etching allows formation of well-defined shapes with sharp edges and corners.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey (U.S. Patent No. 6,110,343) in view of Sethi (U.S. Patent No. 4,891,120) as applied to claim 23 above, and further in view of Karger (U.S. Patent No. 5,872,010). At best, the claim differs from Ramsey (U.S. Patent No. 6,110,343) in view of Sethi (U.S. Patent No. 4,891,120) in reciting use of plural electrospray devices. Karger (U.S. Patent No. 5,872,010) (column 6, line 64-column 7, line 3) discloses plural exit ports allow high

throughput screening of multiple samples. It would have been obvious to use plural electrospray devices in Ramsey (U.S. Patent No. 6,110,343) because Karger (U.S. Patent No. 5,872,010) (column 6, line 64-column 7, line 3) discloses plural exit ports allow high-throughput screening of multiple samples.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karger (U.S. Patent No. 5,872,010) in Sethi (U.S. Patent No. 4,891,120). At best, the claims differ from Karger (U.S. Patent No. 5,872,010) in reciting reactive ion etching. Karger (U.S. Patent No. 5,872,010) (column 4, lines 6-11 and column 6, line 12) discloses etching electrospray channels. Sethi (U.S. Patent No. 4,891,120) (column 2, lines 23-40) discloses reactive ion etching allows formation of well-defined shapes with sharp edges and corners. It would have been obvious to use reactive ion etching in Karger (U.S. Patent No. 5,872,010) because Sethi (U.S. Patent No. 4,891,120) (column 2, lines 23-40) discloses reactive ion etching allows formation of well-defined shapes with sharp edges and corners.

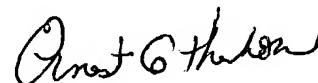
This is a continuation of applicant's earlier Application No. 10/157,956. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Ernest G. Therkorn**  
**Primary Examiner**  
**Art Unit 1723**

EGT  
April 14, 2004